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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

In re A.M.B. et al., Persons
Coming Under the Juvenile Court
Law.

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

M.P.,

Defendant and Appellant.

B293808

Los Angeles County
Super. Ct. No. DK15492

APPEAL from orders of the Superior Court of Los Angeles
County, Natalie P. Stone, Judge. Affirmed.

Cristina Gabrielidis, under appointment by the Court of
Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, Kristine P. Miles,
Assistant County Counsel, and Veronica Randazzo, Deputy County
Counsel, for Plaintiff and Respondent.

Mother appeals an order terminating her parental rights to two of her daughters. We affirm. Code references are to the Welfare and Institutions Code.

The court terminated Mother's parental rights on October 31, 2018. At that time one daughter was two and the other was four. We refer to these girls as the two year old and the four year old. Mother's other three children are not involved in this appeal.

The basic situation is that Father was persistently violent, the court ordered reunification services, and Mother failed the program in two major ways. First, the court ordered Mother to complete classes but, rather than enroll, Mother forged documents saying she graduated. Mother's deceit was brazen, transparent, and swiftly detected. Thereafter, Mother did enroll in classes, but the second problem overwhelmed the situation: Mother said she ended her relationship with the violent father but, in fact, Mother decided to continue the relationship, bringing continuing violence into her children's lives. Mother also tried to hide her ongoing relationship with this violent man, but this deceit too was discovered. After years of effort, the court concluded the better plan was to allow the paternal grandmother to adopt the two young girls who had been in this grandmother's care for most of their lives.

Mother makes two arguments on appeal. The first is about her modification petition. The second is about the beneficial-relationship exception.

Mother's first argument is about her modification petition concerning her four-year-old daughter. Mother claims the juvenile court erred by denying her petition without holding an evidentiary hearing. It was no abuse of discretion, however, to deny Mother's petition.

Section 388 allows a parent to petition the juvenile court to modify an earlier order. (§ 388, subd. (a).) To get a hearing on the

petition, the parent must show (1) circumstances have changed since the earlier order, and (2) modification of the order would be in the child's best interest. (*In re Alayah J.* (2017) 9 Cal.App.5th 469, 478.) We review denial of a section 388 petition for abuse of discretion. (*Ibid.*)

Here, the court made the original order terminating reunification services on April 2018 and without an evidentiary hearing. Circumstances did not change from then to the time Mother filed her petition for modification. Mother's contrary arguments fail.

Mother says circumstances changed because she was "actively pursuing" permanent housing. But she had not *found* permanent housing. She remained in temporary housing, as she had for the duration of this case.

Mother also argues circumstances changed because she finally enrolled in a domestic violence support group and in individual counseling. Her efforts were laudable but not new. She participated in various counseling programs for more than a year before the juvenile court's order. Mother says this time is different because counseling resulted in "significant progress." But hopeful talk about significant progress was not new. With high hopes, the Department's September 2017 status report stated, "Mother has completed Parenting Education and Domestic Violence Classes and has been consistent in Individual Therapy services." It elaborated that Mother "has learned a lot from the services that she has been participating in and realizes . . . she must change her behaviors by making better choices about the people she allows into her life." Yet later the Department received the referral that Mother and her newborn infant, who is not a party to this case, were in Father's car when he attempted suicide by crashing it. A few months later,

Mother stabbed Father. The juvenile court sensibly focused on Mother's actions rather than her words.

Mother stresses she began pursuing services on her own, which was an improvement over her past conduct of merely completing court-ordered services. But no evidence showed Mother's desire to change was genuine rather than a ploy to convince the juvenile court to return her children.

Mother says she was no longer in a relationship with Father. But the juvenile court found Mother was simply incredible. The record supports that finding. Mother fabricated false documents and lied to a deputy about her name.

Much of mother's dishonesty was about her relationship with Father. For instance, Mother denied Father was present during the birth of the two-year-old girl, but in fact he was. One time, after changing her story, Mother explained to the Department she had lied because she thought the lie was what the Department "wanted to hear." The juvenile court had ample grounds for treating Mother's words as worthless. Mother's protective order against Father was not new either. She has had a protective order since January 2017.

Because circumstances had not changed, it was not an abuse of discretion for the juvenile court to deny Mother's modification petition without an evidentiary hearing.

Mother's second argument on appeal is about the beneficial-relationship exception. This argument is incorrect, however, because the beneficial-relationship exception to adoption does not apply to the facts the juvenile court found.

To begin, we explain the beneficial-relationship exception. It is a statute. A juvenile court must develop a permanent plan for children who cannot be reunified with one or both parents. In those situations, the Department's plan is termination of parental rights,

followed by adoption. (*In re K.P.* (2012) 203 Cal.App.4th 614, 620; §366.26, subd. (c)(1).) But parental rights may not be terminated in favor of adoption if the court finds termination would be detrimental to the child because (1) a parent has maintained regular visitation and contact with the child, and (2) the child would *benefit* from continuing this parental *relationship*. (§366.26, subd. (c)(1)(B)(i).) The shorthand for this statutory exception is the “beneficial-relationship exception.”

Our review is deferential. (*In re Jasmine D.* (2000) 78 Cal.App.4th 1339, 1351 [describing split between courts applying substantial evidence and courts applying abuse of discretion, but concluding “[t]he practical differences between the two standards of review are not significant.”].) But we would affirm in this case under any standard of review.

Without doubt, Mother maintained regular contact with these two daughters. But the juvenile court was right these girls would not benefit from a continuing *parental* relationship with Mother.

These young girls spent most of their life with Grandmother. The four year old was only one when placed with Grandmother. As the juvenile court noted, “probably all that [the four year old] can remember is living with [Grandmother].” The two year old was only one month old when placed with Grandmother. Save that first month, the two year old has spent her entire life with Grandmother.

There is love between Mother and these girls, unquestionably. Mother testified her weekend visits with both girls were “wonderful,” the girls called her “mommy,” and the girls were “loving. Like, they always kissing me, hugging me. Like, they’re so attached to me, and it’s like they don’t want to let go.”

The problem is Father’s predictable violence, however, and Mother’s predictable relationship with him. The violence of this relationship threatens these girls. Mother cannot or will not end

the violent relationship. If the juvenile court gave parental control to Mother, her loving weekend visits would not protect her girls from adult male violence. Parental violence is antithetical to a beneficial parental relationship.

Grandmother is a safer and better alternative than Mother. Over the course of years, Grandmother has proven herself as a responsible adult. Grandmother has given the girls love, safety, care, supervision, and stability. The juvenile court was right that, in these circumstances and given available alternatives, Grandmother is the best option.

The juvenile court's ruling about the beneficial-relationship exception was correct, so termination of Mother's parental rights was proper.

DISPOSITION

We affirm.

WILEY, J.

WE CONCUR:

BIGELOW, P. J.

GRIMES, J.